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9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2008-113

13 KATHERINE LUCILLE EVJE,
a.k.a. KATHERINE L. EVJE
14 9989 River View Circle
Stockton, CA 95209

ACCUSATION

15 Registered Nurse License No. 503100

16 Respondent.
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18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
22 ("Board"), Department of Consumer Affairs.

23 2. On or about September 2, 1994, the Board issued Registered Nurse
24 License Number 503100 to Katherine Lucille Evje, also known as Katherine L. Evje
25 ("Respondent"). Respondent's registered nurse license was in full force and effect at all times
26 relevant to the charges brought herein and will expire on October 31, 2009, unless renewed.

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STATUTORY PROVISIONS

3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

5. Code section 2761, subdivision (a), states that the Board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for unprofessional conduct.

6. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license. . .

7. Code section 4060 states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or

1 a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause
2 (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.
3 This section shall not apply to the possession of any controlled substance by a
4 manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,
5 optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse
6 practitioner, or physician assistant, when in stock in containers correctly
7 labeled with the name and address of the supplier or producer.

8 Nothing in this section authorizes a certified nurse-midwife, a nurse
9 practitioner, a physician assistant, or a naturopathic doctor, to order his or
10 her own stock of dangerous drugs and devices.

11 8. Health and Safety Code section 11173, subdivision (a), states, in pertinent
12 part:

13 No person shall obtain or attempt to obtain controlled substances, or
14 procure or attempt to procure the administration of or prescription for controlled
15 substances, (1) by fraud, deceit, misrepresentation, or subterfuge . . .

16 COST RECOVERY

17 9. Code section 125.3 provides, in pertinent part, that the Board may request
18 the administrative law judge to direct a licensee found to have committed a violation or
19 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
20 and enforcement of the case.

21 CONTROLLED SUBSTANCES AT ISSUE

22 10. "**Darvocet**" is a compound consisting of propoxyphene napsylate, a
23 Schedule IV controlled substance as designated by Health and Safety Code section 11057,
24 subdivision (c)(2), and acetaminophen.

25 11. "**Vicodin**", a trade name for **Hydrocodone**, is a compound consisting of 5
26 mg hydrocodone bitartrate, also known as dihydrocodeinone, a Schedule III controlled substance
27 as designated by Health and Safety Code section 11056, subdivision (e)(4), and 500 mg
28 acetaminophen per tablet.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Diversion, Possession, and Self-Administration of Controlled Substances)**

3 12. Respondent is subject to disciplinary action pursuant to Code section
4 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section
5 2762, subdivision (a), in that on/in or about October 20, 2003, July 2004, and July 7, 2004, while
6 licensed as a registered nurse, Respondent did the following:

7 **Diversion of Controlled a Substance:**

8 a. On or about October 20, 2003, while on duty as a registered nurse in the
9 critical care unit at St. Joseph's Medical Center ("SJMC") in Stockton, California, Respondent
10 obtained the controlled substance Hydrocodone by fraud, deceit, misrepresentation, or
11 subterfuge, in violation of Health and Safety Code section 11173, subdivision (a). Respondent
12 withdrew two tablets of Hydrocodone from the Pyxis (a computerized medication system) for
13 Patient B when, in fact, there was not a physician's order authorizing the medication. Further,
14 Respondent failed to chart the administration or wastage of the Hydrocodone in Patient B's
15 Medication Administration Record or Nurse's Notes and otherwise account for the disposition of
16 the two tablets of Hydrocodone.

17 **Possession of a Controlled Substance:**

18 b. In or about July 2004, Respondent, by her own admission, was in
19 possession of approximately ten tablets of Darvocet which she obtained from her mother, who
20 had been prescribed the medication. Respondent possessed the Darvocet without a valid
21 prescription from a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic
22 doctor, in violation of Code section 4060.

23 **Self-Administration of a Controlled Substance:**

24 c. On or about July 7, 2004, Respondent self-administered the controlled
25 substance Darvocet without lawful authority therefor, evidenced as follows: Respondent was
26 observed, while on duty at SJMC, with certain signs and symptoms of impairment, as further set
27 forth in paragraph 13 below, and voluntarily submitted to a for cause urine drug test.
28 Respondent's drug test confirmed positive for Darvocet.

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3. Taking such other and further action as deemed necessary and proper.

DATED: 10/4/07

Ruth Ann Terry
RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant